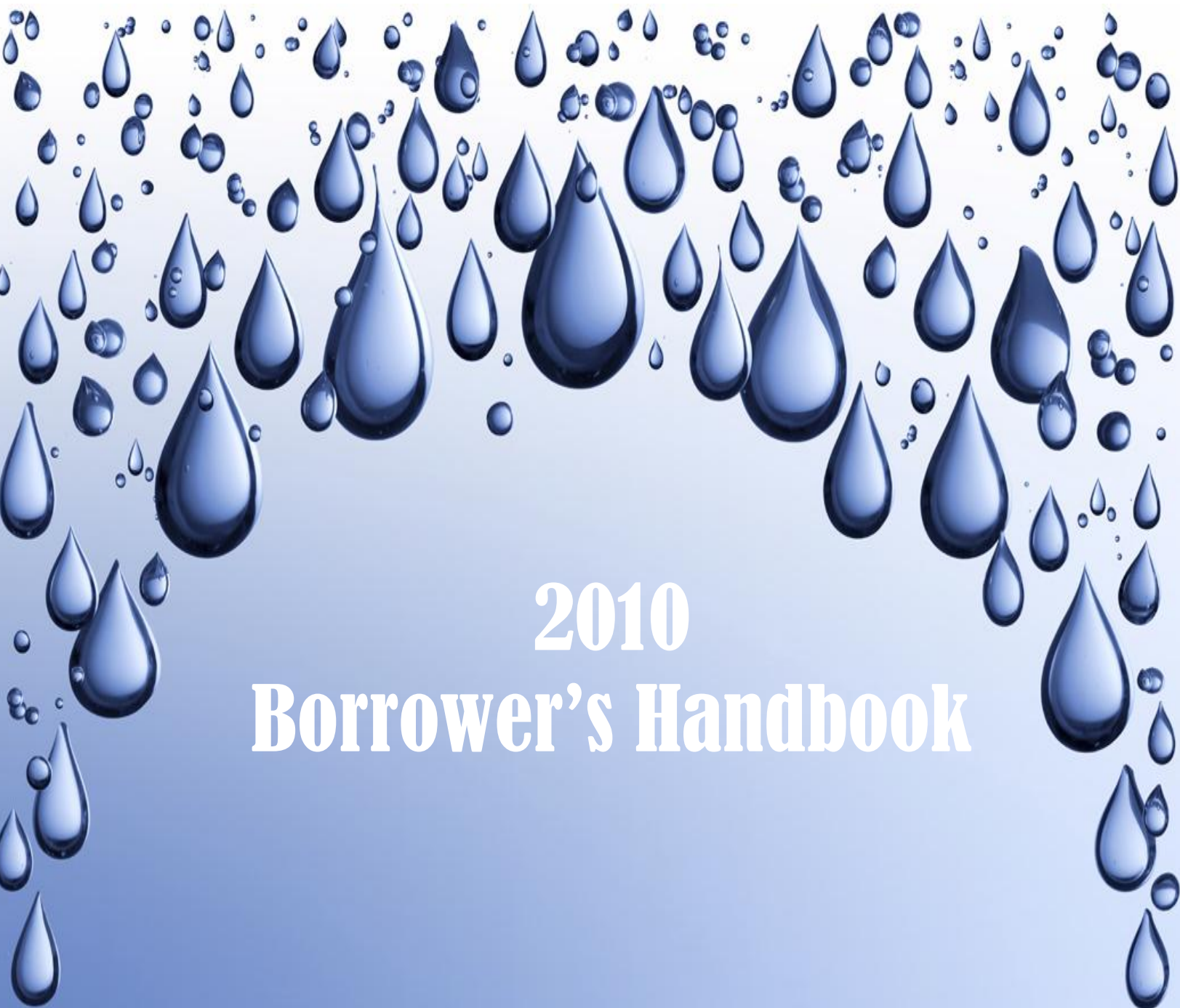


Drinking Water State Revolving Fund (DWSRF)

August 3, 2010



2010 Borrower's Handbook

What's New for 2010?

- ➔ Allowing borrowers to receive reimbursement for eligible preconstruction costs already paid, regardless of when the preconstruction activities were completed. Eligible preconstruction costs cover activities directly related to the project. Reimbursement for these costs is allowable upon execution of a contract, and must include appropriate documentation demonstrating the costs were incurred and paid for. Eligible preconstruction activities include:
 - ➔ Small Water System Management Program and Water System Plan amendments (preparation and submittal costs).
 - ➔ Design and engineering.
 - ➔ Project report and construction documents.
 - ➔ State Environmental Review Process (SERP) and Section 106 cultural review process.
- ➔ Defining green infrastructure, and providing preliminary guidance for describing and documenting the green elements of a project;
- ➔ Changing the loan terms to define criteria and eligibility for principal forgiveness;
- ➔ Adding Davis-Bacon Act prevailing wage requirements; and,
- ➔ Allowing non-municipal borrowers to utilize the Small Purchase Procedures for Limited Public Works Projects

2010 Loan Cycle Timeline

<i>June 1, 2010</i>	<i>June-Sept</i>	<i>August</i>	<i>Sept-Nov</i>	<i>November 1</i>	<i>December</i>	<i>June 2012 (18 months following contract execution)</i>	<i>December 2014 (four years following contract execution)</i>
Draft Funding List Presented to Board	Board Conducts Risk Analysis	Board Approves Recommended Loan List	Board Negotiates Contracts with Borrowers	Deadline for DOH to approve plan documents	Board Executes Contracts	Borrower Issues Notice to Proceed for Construction	Project Completion / Closeout

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Section 1. Getting Started

1.1. Introduction

The Drinking Water State Revolving Fund (DWSRF) is a federal infrastructure loan program designed to assist publicly owned (municipal) and privately owned (non-municipal) drinking water systems in Washington State with low-interest construction loan funding. The purpose of the DWSRF program is to:

- Provide low-interest loans and subsidized loans to water systems for capital improvements that increase public health protection and compliance with drinking water regulations, and
- Protect the health of the people of Washington State by assuring safe and reliable drinking water.
- Applications received each year are scored and ranked by DOH according to specific criteria. Projects that address severe public health threats and compliance issues are given funding priority.

1.2. DWSRF Program Administration

The DWSRF loan program is jointly administered by the Washington State Department of Health's (DOH) Office of Drinking Water, Public Works Board (BOARD) and Contracts Administration Unit (CAU) in the Department of Commerce as outlined below.

Department of Health Office of Drinking Water

PO Box 47822
Olympia, WA 98504-7822

Loan application and general project questions:
Karen Klocke (360) 236-3116

Environmental and cultural review process questions:
Aleceia Tilley (360) 236-3095

DOH staff are responsible for the application process including:

- Publishing program guidelines and application;
- Scoring and ranking applications;
- Developing the prioritized funding lists and publishing the DWSRF Intended Use Plan;
- Overseeing the public health priorities of the program; and,
- Overseeing the State Environmental Review Process (SERP) and conducting Section 106 cultural review process.

Public Works Board

PO Box 48319
Olympia, WA 98504-8319

Prior to signing your contract:
Christina Gagnon (360) 725-3150
See Attachment 1-A

BOARD staff is responsible for contracting, including:

- Conducting a risk analysis of the applicants, including a financial review and determining project readiness;
- Negotiating the final scope of work;
- Preparing and executing loan contract documents; and,
- Providing training on the DWSRF program and PWeB (Board's online contract management system.)

Contracts Administration Unit

PO Box 42525
Olympia, WA 98504-2525

After you sign a contract:
Contact your CAU Project Manager
360-725-3090
See Attachment 1-B

CAU staff are responsible for managing DWSRF contracts from execution through project completion and loan repayment, including:

- Providing contracts management training;
- Monitoring compliance with federal requirements and contract progress;
- Paying reimbursement requests;
- Amending contracts, closing out projects; and
- Issuing annual loan billing statements.

1.3. DWSRF Subsidies Criteria

Under the DWSRF-program, disadvantaged communities and communities located in distressed counties are eligible for partial loan forgiveness. **The final loan amounts and loan forgiveness portions are calculated at project completion and are based on the project's actual eligible costs.**

❖ Disadvantaged Communities

A disadvantaged community is defined as a community where **51% of the water system households are at or below 80% of the County's Median Household Income (MHI)**. Under the 2010 DWSRF loan program, disadvantaged communities are eligible to receive 50% forgiveness for the loan amount requested, provided the borrower has complied with all requirements under this program. Disadvantaged communities will receive loan forgiveness upon project completion. After project completion, borrowers have thirty (30) years to repay the remainder of the loan after the portion of forgiveness has been applied, plus the loan fee (1% of the requested amount at application) and any accrued interest. The interest rate is 1% per annum.

❖ Community Located in a Distressed County

A community located in a distressed county is defined as a community residing in a **designated economically distressed county**, based on the Washington State Employment Security Department of Labor Market and Economic Analysis. For more details, please visit: <http://www.workforceexplorer.com/article.asp?articleId=10268&PAGEID=&SUBID=>

Communities located in distressed counties are eligible to receive 30% forgiveness for their requested loan amount and 30% forgiveness for their loan interest accrued, provided the borrower has complied with all the requirements under this program. Communities located in distressed counties will receive the loan forgiveness upon project completion. After project completion, they will have twenty (20) years to repay the remainder of their loan after the portion of forgiveness has been applied plus the loan fee (which is 1% of the requested amount at application) and any accrued interest. The interest rate is 1% per annum.

❖ Restructuring and Consolidation Projects

Only municipal Group A water systems are eligible for DWSRF funding for restructuring and consolidation projects that involve a change of ownership prior to executing the funding contract. Restructuring and consolidation projects are those that will acquire other non-compliant, failing or struggling public water systems that have water quality problems or deteriorated infrastructure.

Municipal Group A water systems with restructuring and consolidation projects that involve a change of ownership are eligible to receive 50% forgiveness for their requested loan amount and 50% forgiveness for their loan interest accrued, provided that their project has complied with all the requirements under this program. Restructuring and consolidation projects will receive the loan forgiveness upon project completion. After project completion, they will have twenty (20) years to repay the remainder of their loan after the portion of forgiveness has been applied plus the loan fee (which is 1% of the requested amount at application) and any accrued interest. The interest rate is 1% per annum.

1.4. What Is the Difference between Municipal and Non-Municipal Borrowers?

A **municipal borrower** is a political unit, such as a city or town or special purpose district, such as a P.U.D., that is incorporated and self-governing.

A **non-municipal borrower** will fall under one of the following categories:

- Home Owners Associations;
- Water Associations;
- Non-Profit Organizations; or
- For-Profit Organizations.

Non-municipal borrowers must comply with additional requirements as listed in 1.9. Insurance – Additional Requirement for Non-Municipals.

1.5. Water System Planning Requirements

DWSRF projects must be included in current, DOH-approved water system plans and small water system management programs. DOH must approve water system planning documents by November 1, 2010 in order for the project to remain eligible.

1.6. Federal and State Requirements

Numerous federal and state requirements must be followed when implementing a DWSRF-funded project. These requirements are a part of the contract between the Public Works Board (BOARD) and the borrower. Please see Attachment 1-C.

1.7. Borrower's Roles and Responsibilities

Implementation of a DWSRF-funded project is the responsibility of the borrower. The first step is to designate an employee or official (or volunteer, for non-municipal drinking water systems) as the project manager. This person will be responsible for keeping track of all phases of the project and serve as the administrative point of contact.

The project manager should use the checklist in Section 2 to identify major tasks necessary to measure progress and to complete the project in compliance with state and federal regulations.

The project manager must be trained in PWeB, the BOARD's online contract management system. Please contact BOARD staff to schedule a training session for PWeB.

1.8. Time of Performance Requirements

Projects must be competitively bid and the DWSRF Notice of Contract Award and Notice to Proceed must be issued within 18 months of contract execution. Contracts may be terminated if this has not been issued within the 18-month timeline. Notice to Proceed may be extended only if Public Works Board and Department of Health approve the extension. Projects must be completed within 48 months.

When the project is complete, the borrower must submit to DOH a Construction Completion Report. In addition, the borrower must submit a Project Completion Report to the CAU in PWeB.

1.9. Insurance – Additional Requirement for Non-Municipals

Non-municipal borrowers are required to submit proof of liability insurance to CAU within 30 days of contract execution.

Liability Coverage

Commercial general liability coverage must be obtained at the borrower's sole expense and kept in force until the completion of the activities listed in the DWSRF loan contract scope of work. The recommended policy limits should be no less than \$1,000,000 per occurrence with a general aggregate limit of \$5,000,000, or the amount of the DWSRF ARRA loan.

Proof of liability coverage, in the form of a certificate of insurance, is required within thirty (30) business days of the execution of a DWSRF loan contract.

Property Coverage

Property insurance provides coverage for all risks of physical damage or loss to the improvements and/or structures to be constructed using the proceeds of the DWSRF loan. Property insurance must be obtained at the borrower's sole expense and kept in force during the entire term of the loan. Borrower must send proof of coverage for property insurance in the form of a certificate of insurance to the CAU.

Proof of property coverage, in the form of a certificate of insurance, is required upon issuance of Notice to Proceed.

Contact the Washington State Office of Insurance Commissioner for questions regarding insurance companies at <http://www.insurance.wa.gov> or call 800-562-6900.

1.10. Annual Loan Payments

Annual loan repayments are deferred until project completion. The first repayment installment of principal and any interest accrued to date is due on October 1st of the twelfth (12th) month following project completion. All subsequent payments shall consist of principal and accrued interest due on October 1st of each year during the remaining term of the loan. The final payment shall be on or before the term of the loan of an amount sufficient to bring the loan balance to zero.

Loan statements are issued by CAU to the borrower approximately one month prior to the date payment is due.

The borrower will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce, or its successor.

1.11. Establishment of Adequate Rates and Reserves

The borrower are required to have rates or charges for the services of the system that shall be sufficient to provide funds which, along with other revenues of the system, will pay all operating expenses and debt repayments during the term of the loan. In addition, the borrower must create, fund and maintain reserves at least as required by the Water System Plan or Small Water System Management Plan. The Board reserves the right, at anytime, to request proof of compliance of these requirements from the borrower.



Attachment 1-A: WA State Public Works Board Client Services Representatives (CSR) Regions

Washington State Public Works Board Client Services Representatives (CSR) Regions

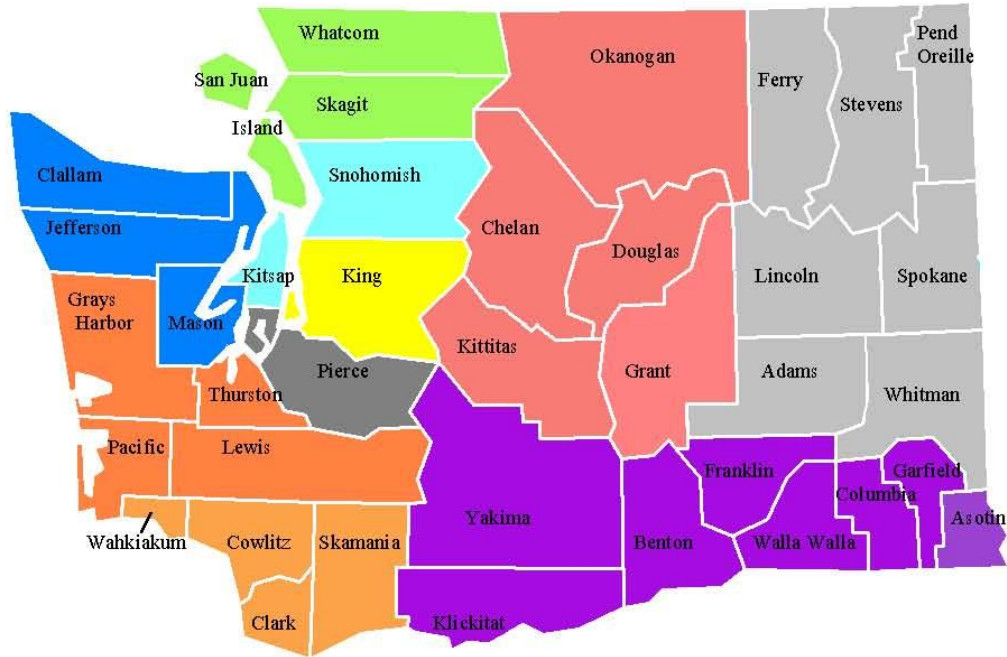
April 26, 2010

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Chris Gagnon (360) 725-3158 Christina.Gagnon@commerce.wa.gov



Attachment 1-B: Contracts Administration Unit Regional Map

Contracts Administration Unit Regional Project Managers



	LeonaMoon Coldeen	360-725-3088	leona.coldeen@commerce.wa.gov
	Cathy Brockmann	360-725-3087	cathy.brockmann@commerce.wa.gov
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	Jennifer Lansidel	360-725-2741	jennifer.lansidel@commerce.wa.gov
	Diane Norton	360-725-3022	diane.norton@commerce.wa.gov
	Sheila Lee-Johnston	360-725-3009	sheila.lee-johnston@commerce.wa.gov
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	Jaclyn Woodson	360-725-3086	jaclyn.woodson@commerce.wa.gov
	Eric Tompkins	360-725-3091	eric.tompkins@commerce.wa.gov
	Jacque Andresen	360-725-3089	jacque.andresen@commerce.wa.gov
	Genny Matteson	360-725-3093	genny.matteson@commerce.wa.gov
	Bill Mandeville	360-725-3051	bill.mandeville@commerce.wa.gov
	<ul style="list-style-type: none"> Statewide NSP 		
	Judy Hartman		
	<ul style="list-style-type: none"> Statewide Energy (ARRA) 	360-725-3115	judy.hartman@commerce.wa.gov

Attachment 1-C: Federal and State Requirements

Environmental Authorities

- a) Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended
- b) Clean Air Act, Public Law 84-159 as amended
- c) Coastal Barrier Resources Act, Public Law 92-583 as amended
- d) Endangered Species Act, Public Law 93-205 as amended
- e) Environmental Justice, Executive Order 12898
- f) Floodplain Management, Executive Order 11934 as amended by Executive Order 12148
- g) Protection of Wetlands, Executive Order 11990
- h) Farmland Protection Policy Act, Public Law 97-98
- i) Fish and Wildlife Coordination Act, Public Law 85-624 as amended
- j) National Historic Preservation Act of 1966, Public Law 89-665 as amended
- k) Safe Drinking Water Act, Public Law 93-523 as amended
- l) Wild and Scenic rivers Act, Public Law 90-542 as amended

Economic and Miscellaneous Authorities

- m) Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended, Executive Order 12372
- n) Procurement Prohibitions under Section 306 of the Clean air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- o) Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended
- p) Debarment and Suspension, Executive Order 12549

Social Policy Authorities

- q) Age Discrimination Act of 1975, Public Law 94-135
- r) Title VI of the Civil Rights Act of 1964, Public Law 88-352
- s) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)
- t) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)
- u) Equal Employment Opportunity, Executive Order 11246
- v) Women's and Minority business Enterprise, Executive Orders 11625, 12138 and 12432
- w) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590
- x) Wage Rate Requirements Under FY 2010 Appropriations

State Laws

- y) Chapter 36.70A RCW, Growth Management Act
- z) Chapter 39.80 RCW, Contracts for Architectural and Engineering Services
- aa) Chapter 39.12 RCW, Washington State Public Works Act
- bb) Chapter 43.20 RCW, State Board of Health
- cc) Chapter 43.70 RCW, Department of Health
- dd) Chapter 43.155 RCW, Public Works Project
- ee) Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977

- ff) Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations
- gg) Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances
- hh) Chapter 246-290 WAC, Group A Public Water Systems
- ii) Chapter 246-291 WAC, Group B Public Water Systems
- jj) Chapter 246-292 WAC, Waterworks Operator Certification Regulations
- kk) Chapter 246-293 WAC, Water Systems Coordination Act
- ll) Chapter 246-294 WAC, Drinking Water Operating Permits
- mm) Chapter 246-295 WAC, Satellite System Management Agencies
- o) Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
- p) Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
- q) Title 173 WAC, Department of Ecology Rules
- r) Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations (Section Adopted by Reference)

Section 2. CONTRACT AMENDMENTS AND IMPLEMENTATION CHECKLIST

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Section 2. Contract Amendments and Implementation Checklist

2.1. Contract Amendments Overview

When a borrower is proposing a change in the contract scope of work, or type of budget activities to be funded, or in the timing to carry out the contract activities, an amendment to the contract must be requested.

To initiate an amendment to the contract, the borrower should contact CAU .

2.2. Scope of Work Amendment

To initiate a scope of work change, the borrower should contact CAU. No work can be done on any elements of the proposed scope change until DOH determines the scope change is allowable, all elements of the SERP/106 are completed for the proposed change, and a contract amendment has been fully executed.

2.3. Extend the Notice to Proceed and/or Project Completion Date

The borrower must request an extension to the Notice to Proceed and/or the Project Completion Date at least 60 days before the expiration of those dates in the contract. To request a notice to proceed extension, the borrower must send a request through CAU. DOH and PWB staff will review and approve the extension. The Borrower must request a Project Completion extension in PWeB. Both requests must state the reason for the delay and list the revised timeline for completion of the activities. CAU presents the Project Completion extension request to the BOARD for consideration.

2.4. Other Types of Changes to the Contract Terms or Conditions

If the borrower is proposing any other changes to the terms and conditions of the contract, contact the CAU Project Manager for direction on the process and requirements.

2.5. Contract Implementation Checklist

The following checklist is provided as an overall guide for the implementation of the borrower's approved DWSRF project. The checklist is general in nature, which means that some items may or may not be applicable based on the type of project being constructed. The checklist is provided so that borrowers can make sure certain actions have been taken, and it should be used as a reference to specific sections of the contract handbook.

AWARD	Handbook Section	YES	N/A
1. Established project files			
2. Designated a Project Manager			
3. Received PWeB training from the BOARD			
4. Received loan award letter from the BOARD			
5. Received training on PWeB from BOARD staff			

6. Developed contract scope of work with the BOARD			
7. Received two sets of contracts from the BOARD			
8. Signed and returned two original sets of contracts to the BOARD			
9. Received training on contracts management, federal requirements from CAU			
10. Provided CAU a copy of dedicated repayment account (non-municipals); submit quarterly statements to CAU			
11. Provided proof of insurance (non-municipals) & provided CAU a copy			
12. Submitted quarterly progress reports to CAU, through PWeB, during the life of the project			
13. Conducted a competitive process to procure professional services (engineer, architect)			
14. Checked Excluded Parties List (EPLS) for clearance on professional service providers (engineers, architects, etc.) prior to signing contracts; provided copy to CAU			
15. Developed contracts in accordance with all applicable state and federal requirements			
16. Completed the State Environmental Review Process (SERP); received a copy of completion letter from DOH; and, provided a copy to CAU			
17. Completed the Section 106 Cultural/Historical Review process; received a copy of s completion letter from DOH; and, provided a copy to CAU			
18. Provided CAU with a copy of the proposed bid advertisement prior to advertising for construction contract, for CAU approval			
19. Requested Davis Bacon wage rates from CAU or Dept of Labor website			
20. Provided copy of DOH Project Report and Construction Documents DOH approval letter to CAU			
21. Developed Bid packet; forwarded to CAU for review			
22. Advertised for bid following CAU approval of bid advertisement			
23. Demonstrated compliance with Disadvantaged Business Enterprises			
24. Ten days before bid opening, verified with CAU that Davis Bacon rates in bid packet are current			
25. Conducted bid opening in accordance with Washington State Law			
26. Contacted CAU when less than two bids received			
27. Adopted proper bonding			

28. Checked Excluded Parties List (EPLS) for clearance on prime contractor, sub-contractors, and vendors prior to signing contracts; provided copy to CAU			
29. Conducted pre-construction conference; forwarded <u>copy</u> to CAU			
30. Submitted DWSRF Notice of Contract Award and Notice to Proceed to CAU			
31. Posted applicable Davis Bacon Wage Decision and Department of Labor poster at the job site			
32. Submitted 21 day Labor packet to CAU for approval			
33. Submitted Construction Completion Report to DOH			
34. Approval by Certified Public Accountant of project costs prior to closeout (non-municipal)			
35. Submitted Project Completion Report to CAU through PWeB			
36. Scheduled A-133 audit following \$500,000 or more in expenditures (all federal sources of funds) in borrower's fiscal year			

Attachment 2-A: Quick References for Drinking Water State Revolving Fund

Office of Minority & Women's Businesses: <http://www.omwbe.wa.gov/>

Labor & Industries Prevailing Wage: <http://www.lni.wa.gov/>

Excluded Parties List System: <http://www.epls.gov/>

Public Works Board: <http://www.pwb.wa.gov/>

Washington State Department of Health: <http://www.doh.wa.gov/>

Washington State Department of Health, Drinking Water: <http://www.doh.wa.gov/ehp/dw>

Washington Society of Certified Public Accountants: <http://www.wscpa.org/>

Washington Small Business Development: <http://www.wsbsd.org/>

Public Works Board PWeB on-line loan management system:

<https://fortress.wa.gov/commerce/pwbloantracking/> (requires borrower to be trained and to have been issued a password)

Section 3. RECORD KEEPING AND REPORTING

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Section 3. Record Keeping and Reporting

3.1. Overview

DWSRF borrowers must be able to document compliance with all state and federal regulations. Good record keeping and reporting systems are essential to document compliance. This section provides a summary to help set up a DWSRF record keeping system and a summary of reports that will be requested during the management of the contract.

3.2. Establishing a Filing System

The borrower must maintain accurate and current files. It is best to keep all DWSRF files in one central location. Files need to be accessible to all project funders.

3.3. Security

Files should be kept in a secure place, but accessible to the public. A filing cabinet that can be locked is recommended.

3.4. Maintaining Records

All records and files pertaining to the DWSRF application, engineering, and construction of the project must be stored for the life of the loan plus six years (generally twenty-six years for a 20-year loan). Records of operating and maintenance costs do not have to be saved for purposes of the DWSRF loan.

3.5. Organizing a Filing System

A good filing system can be a very effective management tool. It will ensure that the borrower has all necessary documentation to meet compliance requirements. The following is suggested as a basic guide for DWSRF record keeping. It is recommended that borrowers keep separate files for each DWSRF project.

The system includes major headings for administration, financial management and compliance:

- | | |
|------------------------------|----------------------------------|
| 1-Application | 5-Environmental/Cultural Review |
| 2-Financial Management | 6-Prime Contractor Contracts |
| 3-Non-Construction Contracts | 7-Labor Construction & Standards |
| 4-Procurement/Bonding | 8-Required Reports |

3.6. Quarterly Progress Reports

The borrower is required to complete progress reports and submit quarterly or as requested by the Board and DOH, through PWeB to the CAU. The quarterly report serves as a means to monitor the project and identify any issues that may need to be addressed. Quarters are based on the calendar year with reports due by the end of the month following the end of each quarter from the time the contract is executed through project completion.

Non-municipal borrowers must report the balance of their dedicated repayment account on each quarterly report.

Training on how to access and use PWeB is available through BOARD staff.

3.7. Project Completion Report

When the project is complete, the borrower is required to submit the DOH Construction Completion Report to the DOH Regional Engineer. A copy of the approved report or the approval letter from the DOH Regional Engineer must be submitted to CAU prior to closing out the project.

To complete the closeout process, the borrower must also submit a Project Completion Report in PWeB. The report must be signed by the borrower (for non-municipals the report must be certified by a certified public accountant) and submitted to CAU.

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Section 4. Financial Management

4.1. Overview

This section is designed to help DWSRF borrowers understand and implement financial management systems that comply with DWSRF program requirements.

4.2. Internal Control

The borrower should designate one person as fiscal coordinator of the DWSRF loan. Only one signature is required to request reimbursement of expenditures from Commerce, however, in the absence of the fiscal coordinator, or in other circumstances, a second person should be authorized to sign on the reimbursement request form.

Borrowers must maintain effective internal controls and accountability for the DWSRF funds by complying with financial management standards and generally accepted accounting principles. Methods for maintaining internal control include establishing policies and practices for approval of expenditures; bonding of staff handling cash; clearly defining loan and project management roles and responsibilities; and, maintaining segregation of duties in handling and accounting for expenditures and receipting of funds.

4.3. Establish an Electronic Funds Transfer Account

Borrowers are encouraged to establish an electronic transfer account (EFT) to receive loan reimbursements. Please contact the Office of Financial Management at (360) 664-7779 and request information on how to set up an EFT account, or send an email to vendorhelpdesk@ofm.wa.gov.

4.4. Non-Municipal Borrowers Only: Establish a Dedicated Repayment Account

Non-municipal borrowers must establish a dedicated account in a FDIC insured institution to handle the funds for repaying the loan, and should have a separate account for each DWSRF loan. This account is used solely for the purpose of repaying the DWSRF loan. A copy of the initial bank statement must be submitted to the CAU before the first request for reimbursement will be paid. On a quarterly basis, copies of the bank statement must be submitted to CAU. Reimbursements may be held pending receipt of the quarterly statements.

4.5. Audit

All borrowers that expend \$500,000 or more in federal funds (all sources) in their fiscal year must have an audit conducted in accordance with Office of Management and Budget (OMB) revised Circular A-133. The audit must be conducted within nine months of the end of the fiscal year in which the audit was “triggered.” The applicable federal category for the DWSRF is CFDA 66.468.

Note: Non-municipal borrowers in need of locating an auditor, for purposes of complying with the audit, should contact the Washington Society of CPA's at <http://www.wscpa.org>.

4.6. Requesting Reimbursement for Preconstruction Activities

After the contract is executed, reimbursements may be requested for eligible pre-construction costs that are directly related to the project.

Note: Non-municipal clients must submit documentation within 30 days of contract execution to the CAU to demonstrate compliance with the following two requirements prior to receiving any reimbursements:

- Proof of liability insurance, and
- A copy of the dedicated repayment account bank statement.

4.7. Requirements before Starting Construction

There are certain contract conditions that must be met within 18 months of contract execution, **prior** to issuing the DWSRF Notice of Contract Award and Notice to Proceed and prior to starting construction. Meeting these conditions may take from 60 to 180 days (or longer) to complete. The borrower is encouraged to begin work as soon as possible to complete and obtain approval from DOH on:

- State Environmental Review Process (SERP),
- Section 106 cultural review process, and
- Project report and construction documents.

DWSRF Notice of Contract Award and Notice to Proceed completed and the prime contractor is not on the Federal Suspension and Debarment List is documented.

4.8. Requesting Reimbursement for Construction Activities

Davis-Bacon Wage Requirements:

- Before CAU can reimburse the borrower for the first construction invoice, the borrower must submit the 21 Day Labor Packet to CAU for approval.

The 21 Day Labor Packet includes:

- Certified payroll for the first week of construction,
- Copies of employee interviews (one for each wage classification on the job site during the first week of construction), and
- Intent to Pay Prevailing Wages form. (Available from State department of Labor and Industries <http://www.lni.wa.gov>)

4.9. A-19 Reimbursement Voucher

Borrowers must request reimbursements using Commerce A-19 *Reimbursement Voucher*. CAU staff will provide this form to borrowers along with the executed contract. An original signature in **BLUE INK** is required. Please do not sign vouchers with black ink, as the voucher can be mistaken for a photocopy, which would delay the processing of the voucher. No photocopies will be accepted.

The A-19 *Reimbursement Voucher* must include documentation stating that the service and/or materials have already been provided. Copies of Invoices for work or services completed must be attached as such documentation. Borrowers do not have to pay the invoice prior to requesting reimbursement from CAU, but the expense must have been already incurred.

Payments will be made to the DWSRF borrower, usually within 12-15 business days of having submitted the A-19 *Reimbursement Voucher* and any required supporting documentation to CAU. The CAU will not pay the borrower's prime contractor, sub-contractors or any vendors directly.

4.10. Final Reimbursement Request

A sum of 10 percent of the funds shall be withheld until all tasks, activities and conditions of the DWSRF contract have been successfully completed by the borrower and fully accepted by DOH and COMMERCE. At that time the borrower can request the final payment.

4.11. Frequency of Reimbursement Requests

Borrowers are requested to limit their reimbursement requests to no more than one request per quarter. Borrowers may request reimbursement monthly if necessary. However, the amount requested must be at least \$500.00. If the invoice is for less, CAU will hold it until the borrower's requests total at least \$500.00, then process for payment.

4.12. Eligible Activities and Costs

The following activities are eligible for reimbursement if they relate directly to an eligible, funded DWSRF project:

- Preconstruction activities (engineering, Water System Plan and Small Water System Management Program preparation, design, legal, financial, environmental and cultural review, permitting, and surveying) directly related to an eligible capital construction project.
- Purchase costs for publicly owned water system to acquire or restructure troubled water systems.
- Construct main extensions to connect to safe and reliable drinking water.
- Replacing aging equipment and infrastructure.
- Buy real property from a willing seller if it is an integral part of a capital construction project. If DWSRF funds are used to purchase real property, and any portion of that property is sold or rented, we will deduct any resulting profits from the reimbursement. Reimbursements include:
 - ⇒ Purchase of land and easements.
 - ⇒ Purchase of roads, buildings, fences, or other structures.
 - ⇒ Salaries, expenses, or fees for appraisers, negotiators, or attorneys.
 - ⇒ Removal or demolition of roads, buildings, fences, or other structures.
 - ⇒ Other direct costs associated with real property acquisition.
- Competitive bidding costs.
- Contracted construction costs.

- Labor costs including salaries and wages at actual or average rates. Administrative and project management labor costs are not eligible unless they apply to the following activities and are no more than 3 percent of the funding amount:
 - Pre-design engineering.
 - Design engineering.
 - Construction engineering.
 - Acquiring land or rights of way
 - Construction inspection activities
 - Project management activities
 - Complete water system planning documents
 - Administrative/office work related to project

When a borrower uses their own administrative staff to work on the types of activities described above, or for project management, their labor costs cannot exceed 3 percent of the funding amount.

- Purchase and installation of source meters.
- Purchase and installation of service meters as part of an eligible project, including:
 - Purchasing meters.
 - Line locating.
 - Labor.
 - Excavation.
 - Disinfection and flushing of connections.
 - Replacing or repairing mains damaged during meter installation.
- Clear wells associated with treatment and co-located with the treatment facility.
- Distribution reservoirs (finished water).
- Security measures, including:
 - Enhanced filtration and disinfection (for biological agents).
 - Enhanced treatment (for chemical agents).
 - Cover existing finished water reservoirs.
 - Fencing facility area.
 - Security cameras, lighting, and motion detectors.
 - Back-up or emergency systems (including power—if generator, must be non-portable).
 - Secure chemical and fuel storage.
 - Lab equipment.
 - Backflow prevention devices in distribution systems (must be owned and maintained by system).
 - Installing security hatches on reservoir or tank.
 - Protective measures identified as necessary through a cross-connection control program.
- With DOH approval, projects may be sized to accommodate reasonable population growth and water system expansion (generally the 20-year projection in a Water System Plan or Small Water System Management Program).

- Costs of complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- DWSRF loan fees.
- Purchasing water production capacity from another water system, if that is the best solution for the project. This is limited to municipal water systems that are not using the additional water production capacity for future growth, but need the capacity to address a public health threat.
- Cleaning, sterilizing, or testing water system components to remove contamination before public use.
- Other direct costs associated with an eligible construction project, including costs for:
 - Materials and supplies.
 - Telephone.
 - Copying, printing, and advertising.
 - Using photography for surveying or map-making.
 - Video and photography for project documentation.
 - Computer usage.
 - Vehicle and equipment rental costs.
 - Competitive bidding.
 - Audit costs.
 - Construction insurance costs (not liability insurance).

4.13. Ineligible Activities and Costs

- Water rights, except if the water rights are owned by a public water system that is being purchased through consolidation.
- Laboratory fees for monitoring.
- Operation and maintenance expenses (ex: reservoir cleaning, coating, and painting).
- Portable generators, tools, vehicles and other “rolling stock.”
- Indirect salaries, wages, and benefits for water system employees whose work falls outside of the scope of project construction.
- General Liability insurance.
- Projects primarily for future population growth and water system expansion.
- Projects solely for pre-construction activities.
- Projects solely for studies or assessments.
- Restructuring (purchasing) costs incurred by privately owned systems.
- Point of use treatment devices for community systems and most non-community systems.
- Acquisition, construction, or rehabilitation of dams or raw water reservoirs.
- Individual projects for multiple water systems submitted as one application.
- Projects in which fire protection is the primary focus.

4.14. Compliance by Prime and Sub-Contractors and Professional Service Providers

Borrowers must require their prime and sub-contractors (including contracted administrators and engineers) are in compliance with all financial management requirements.

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Section 5. Requirements and Procedures for Procuring Professional Services

5.1. Procuring Professional Services

The borrower may use their own staff for engineering and design work. Borrowers who are already under contract with an engineering or architectural consultant may continue to use that consultant for their project. Alternatively, borrowers need to hire engineering or architectural consultants are required to follow these guidelines:

5.2. Advertise

Publish the request for professional services in a newspaper of general circulation. The announcement should state the general scope and nature of the project or work and how to contact the borrower for additional information.

5.3. Evaluation of Proposals and Statements of Qualifications

The borrower must have a documented system for reviewing proposals and statements of qualifications submitted in response to the published and distributed advertisement. The system must include the use of selection criteria established prior to solicitation, evaluation of cost and rates, and be thorough, uniform and well documented.

5.4. Select Firm Most Advantageous to the Project

Borrowers need to document why they selected the chosen firm and indicate why the chosen firm is the most qualified for the job. Select the firm (under the Request For Proposals method) whose proposal is most advantageous to the project considering all factors, or the most qualified (under Request for Statement of Qualifications method). In the case of the latter method, contract negotiations must then be conducted to determine the fair and reasonable price of services.

Borrowers should negotiate a contract with the most qualified firm for architectural and engineering services at a price they determine to be fair and reasonable. In making a determination, borrowers should take into account the estimated value of the services to be performed, as well as the scope and complexity of the project. If the borrower is unable to negotiate a satisfactory contract with the firm selected at a price the borrower determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the borrower shall select other firms in accordance with RCW 39.80.040.

5.5. Check for Suspension/Debarment

Before signing a professional services contract, jurisdictions must verify that the complete names of both the selected firm and the owner or president are not in the Federal Excluded Parties List System (EPLS) for Ineligible Professionals and Debarred Contractors. Further, the borrower must provide the CAU Project Manager with a computer printout documenting the firm and owner/president do not appear on the EPLS list. Contractor/subcontractor eligibility may be verified using the following website: www.epls.gov.

The Borrower must complete the Certification Regarding Debarment, Suspension, and Other Responsibility Matters EPA form 5700-49 (11-88) and submit to CAU (see Attachment 7-C).

5.6. Prepare the Contract

Prepare the contract agreement. The contract should include the following provisions:

General Requirements:

- Effective date
- Authority and source of funds
- Conditions and terms under which the agreement can be terminated
- Errors and Omission (engineering firms only) Engineering firm must be licensed to do business in Washington State; be in compliance with the Board of Professional Registration requirements, insured with proper errors and omissions insurance and/or bonding.
- Conflict of interest provisions
- Access to records & records retention clauses

Scope of Services:

- Detailed description of the extend and character of work to be performed
- Time of performance and completion of contract services, including milestones, if any.
- Specifications of materials or other services to be provided by both parties

Method of Compensation:

- Provisions for compensation for services
- Maximum amount payable under the contract
- Fee and payment schedules, if appropriate

5.7. Monitor Performance

The borrower should establish a system to monitor the performance of its engineer, architect or consultant. At a minimum, the system should provide for reconciling the bills against applicable documentation and receiving at least monthly briefing or report on the project status, problems, etc. The scope of work can provide the basis for monitoring and evaluating the performance of the engineer, architect or consultant by specifically identifying performance measures.

5.8. Record Keeping and Reporting

Borrowers are required to maintain records for each procurement which identify the procurement method used and why it was selected; the rationale used for selecting the contract type; reasons for selecting and rejecting bidders/qualified firms; and the basis for the contract cost or price. Borrowers are required to keep a copy of the advertisement published in the paper and records of minority-owned and women-owned businesses that were invited to submit proposals or qualifications.

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Section 6. Environmental and Cultural Reviews

6.1. Overview

As the primacy agency for the DWSRF program, DOH leads the review processes for the State Environmental Review Process (SERP) and the National Historic Preservation Act (cultural review, also referred to as Section 106). Although the SERP and Section 106 are two distinctive processes, DOH will coordinate both reviews as much as possible. SERP is essentially a checklist of all environmental regulations, which encompasses the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA).

All federally funded projects must undergo an environmental review and cultural review. Both reviews identify and analyze potential impacts a project may have on environmental, historical, and cultural resources. These reviews can take from **six to eighteen months** and sometimes longer if any of the following apply:

- A) New ground will be disturbed
- B) Project will impact or is near:
 - ⇒ Endangered species
 - ⇒ Native American reservation
 - ⇒ Contaminated soils
 - ⇒ Historic structures
 - ⇒ Body of water
 - ⇒ Environmental sensitive area (e.g., wetlands)
 - ⇒ Cultural resources
- C) Requested documentation is not provided in a timely manner

Projects cannot move forward with construction activities until both processes are complete and DOH has issued a Final Completion Letter. Therefore, to ensure the processes continue efficiently, active participation from the borrower is essential; DOH may request supplementary information, such as construction drawings, plans, publications, or other previously approved compliance documentation.

A government-to-government relationship must be properly adhered to for the cultural review; and as such, it is DOH's responsibility to contact the Tribes and the Department of Archaeology and Historic Preservation (DAHP). DOH will notify the borrower when a cultural resources survey is necessary. It is the borrower's responsibility to hire an archaeologist to conduct the survey and submit a draft of the survey to DOH for final approval.

In addition, for projects receiving additional state or federal funding, the more stringent environmental and cultural review process must be followed in order to comply with DWSRF requirements. It is the borrower's responsibility to inform DOH of additional funding sources and submit the any necessary compliance documentation that has been completed to date; otherwise any steps of the process not adequately documented must undergo another review. DOH will

coordinate the reviews with other funding agencies. DOH will not initiate any of the reviews until after the DWSRF contract has been executed.

6.2. Cultural and Environmental Review Timetable

Activity	Responsibility	Timeframe
Evaluate Project <ul style="list-style-type: none"> Schedule site visit for SERP and Section 106 reviews Research Project Area at DAHP 	DOH	Ongoing ¹
Make Section 106 Determination <ul style="list-style-type: none"> “No Historic Properties Affected” -OR- “Potential Historic Adverse Effect” <ul style="list-style-type: none"> (a) complete survey, monitoring plan, and/or inadvertent discovery plan (b) additional consultation with DAHP and Tribes 	DOH Borrower	Ongoing ¹ 2 - 11 months ²
Forward Determination to Consulting Parties	DOH	30 days
Review Concurrence Letter(s)	DOH	15 days
Make or Receive SEPA/NEPA Determination <ul style="list-style-type: none"> Categorical Exemption/Exclusion SEPA Checklist/Environmental Impact Statements (EIS) 	Borrower/DOH/Other Regulatory Agencies	Ongoing ¹
Public Comment Period <ul style="list-style-type: none"> Publish Section 106 and/or SEPA Findings 	Borrower	30 days ³
Forward Final Completion Letter	DOH	7 days

6.3. Things That May Hinder Your Progress

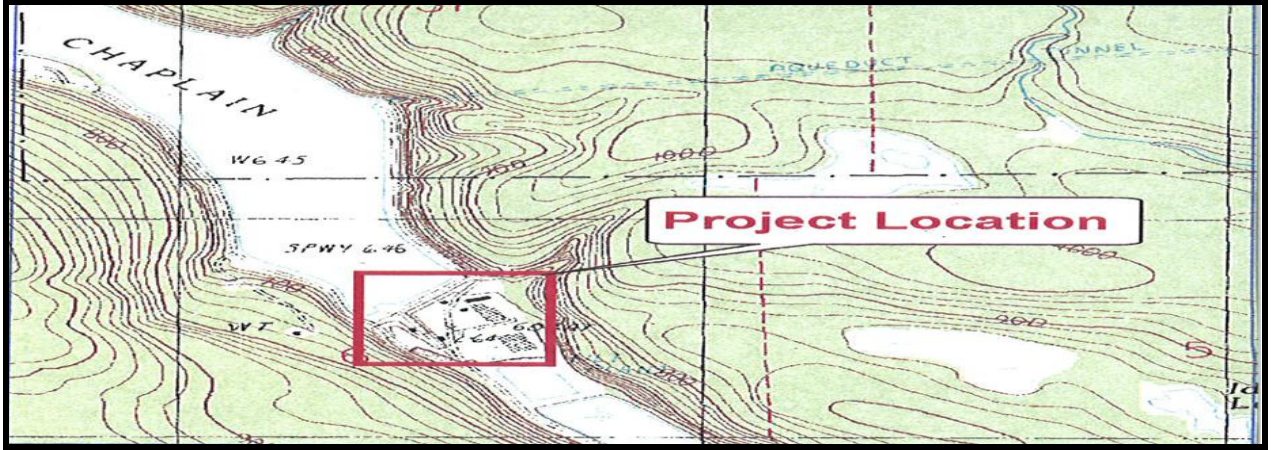
The following items may delay progress on the project’s environmental or cultural review:

- Project Review Sheet (EZ-1 Form) is incomplete or contains incorrect information.
 - ⇒ Project location is not clearly identified.
 - ⇒ Project description is not detailed enough.
 - ⇒ Township, Range, and Section is incorrect.
- The misunderstanding that the cultural review is completed once the EZ-1 Form has been submitted. The EZ-1 Form *only initiates* the cultural review and further actions are required (See *Cultural Review Flow Chart*).
- Not submitting the EZ – 2 Form when a structure or building is going to be modified or demolished. Submitting the EZ– 2 form is required only if the borrower proposes to modify/demolish a structure or a building. The EZ – 2 form should have been included in the DWSRF funding application submitted to DOH.
- USGS Quad map is not submitted with the EZ-1 Form and project area is not identified (See below map as an example).
- Revising the project scope of work or acquiring additional relevant information may result in another cultural resource review process.

¹ Revised project scope or other relative information may result in another review

² Timeframe depends on the significance of cultural/historic resources in vicinity of the project area.

³ Public comment period may run concurrently. If done separately, a 30-day public review is required for each process.

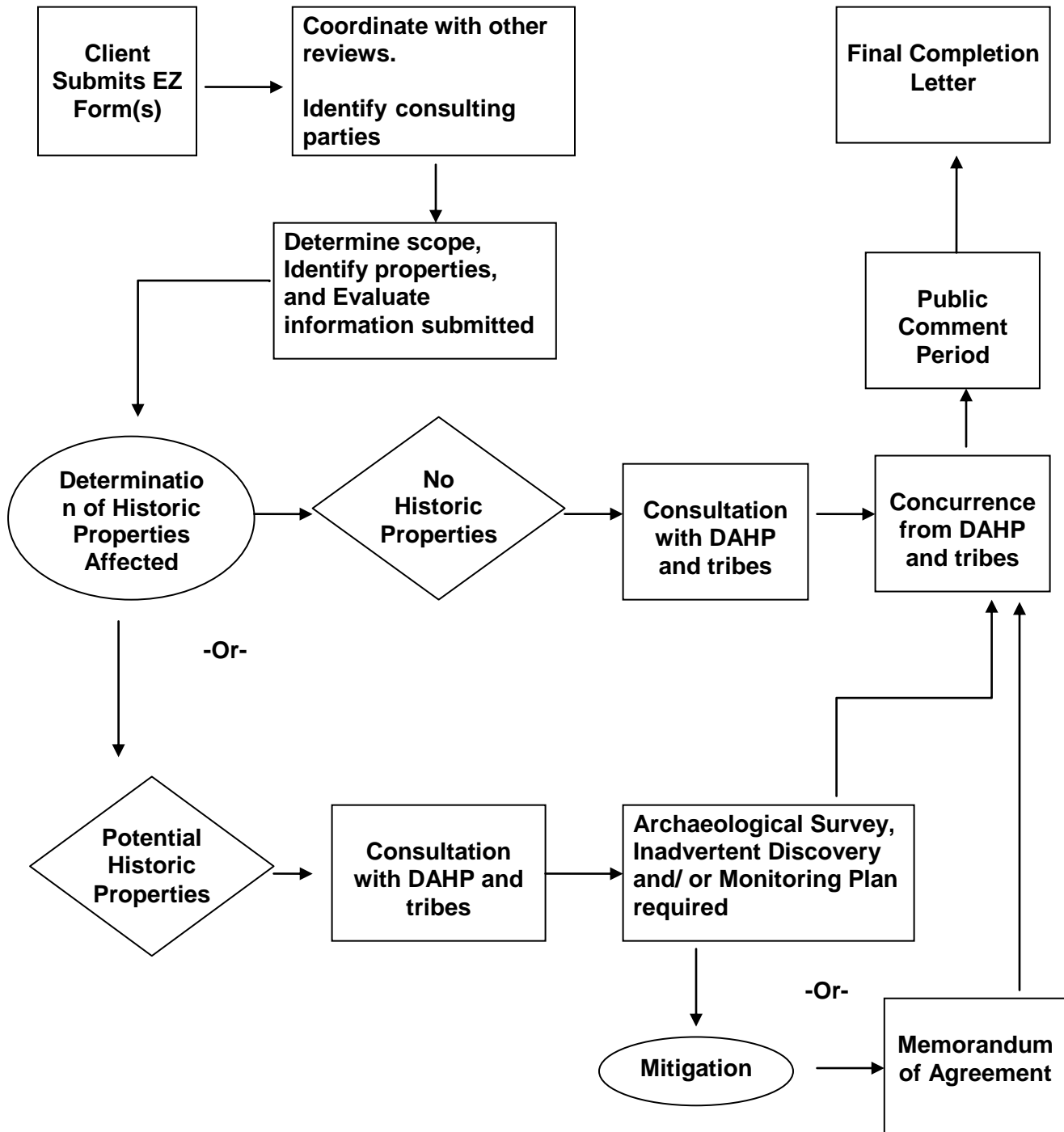


Important: Borrowers cannot begin construction until they have consulted with DOH about their required environmental and cultural review, and received a Completion Letter.

If a project includes multiple funding sources, it is the borrower's responsibility to contact and forward pertinent information to DOH as soon as possible to ensure that Section 106 and SERP processes are completed in a coordinated manner with other funding program requirements.

Please contact DWSRF's SERP and Section 106 Lead at (360) 236-3095 or Aleceia.Tilley@doh.wa.gov for questions.

6.4. Cultural Review Flow Chart



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Section 7. Requirements and Procedures for Procuring Construction Contracts

7.1. Overview

This section describes a step-by-step process for procuring construction contractors. Information in this section outlines a competitive bid process applicable to DWSRF construction projects where the construction project must be competitively bid, through a sealed bid process.

This section also incorporates information regarding Labor Standards provisions that are applicable to construction projects of over \$2,000. For additional information on labor standards see Sections 8.

Construction contracts are normally procured by sending an Invitation for Bid (IFB) to interested contractors. The IFB contains all the information the contractor will need to bid on a project. Once completed and submitted by the bidder, the IFB, if the lowest responsible bid, becomes the basis for the contract between the contractor and the grantee.

7.2. Non-Municipals: Small Purchase Procedures for Limited Public Works Projects

Non-municipal borrowers may utilize the small purchase procedures in those instances where public works projects are not expected to cost over \$35,000. However, small purchase procedures may not be used to procure engineering or architectural services. If small purchase procurement is used, price or rate quotations or proposals must be obtained from at least three qualified sources. Efforts must be made to seek at least one quotation or proposal from a certified minority business enterprise (MBE) or from a certified woman business enterprise (WBE). If the jurisdiction has established a lower ceiling for small purchases, then this lower ceiling must be followed. Document all steps taken, quotations/proposals received and MBE/WBE outreach efforts made. Requests for quotes, proposals, etc., do not have to be advertised in a newspaper of general circulation. When using small purchase procedures, it is strongly recommended the selected firm's references and ability to perform be thoroughly checked. See RCW 39.04.155 (3) for details.

7.3. Advertise for Bids

At a minimum, a bid advertisement should include the following items:

- Title of project;
- Nature and scope of work;
- Location where plans and specifications documents may be obtained;
- Cost, if any, to obtain a set of plans and specifications documents;
- The place, date, and time that the bids are due;
- Statement that the borrower retains the right to reject any and all bids;
- List of the funding sources for the project, including the DWSRF funds;
- Requirement that the higher of state or federal prevailing wages must be paid;
- Statement indicating that borrower is an Equal Opportunity Employer;

➤ Statement that DWSRF requirements or provisions must be met by general contractors and all subcontractors.

➤ The following statements must be included in the advertisement:

“All work performed on this project will be subject to the higher of the prevailing state or federal wage rates.”

“The (City/County) of _____ is an Equal Opportunity and Affirmative Action Employer.”

“This project is (funded/partially funded) through the Washington State Drinking Water State Revolving Fund program with federal funds from the Environmental Protection Agency.”

“Small, Minority- and Women-owned firms are encouraged to submit bids.”

See Attachment 7-A: Example of Advertisement for Construction Contract Bids.

Bids should be advertised in a newspaper of general circulation for the project area. General contractors must be given enough time to research specifications and submit responsible proposals. Borrowers should advertise the bid once a week for two weeks in a newspaper of general circulation. A minimum of 14 calendar days must be allowed between the date of the last publication and the bid opening date.

Prior to advertising, send a copy of the draft bid advertisement to CAU for review and approval.

7.4. Disadvantaged Business Enterprise (DBE) Utilization Requirements

Small, minority and women-owned firms should be afforded the maximum opportunity to compete for and obtain bid documents for projects funded by the DWSRF program. The level of participation by small, minority and women-owned firms should be consistent with their general availability within the professional community involved. For more detailed information on DBE, please visit <http://www.epa.gov/osbp/grants.htm>.

7.5. Fair share Objective Goal

A fair share objective is a goal based on the capacity and availability of qualified, certified Minority Business Enterprises (MBEs) and Women’s Business Enterprises (WBEs) in the relevant geographic market. As mandated by EPA, all general contractors and subcontractors must comply with the requirements of the EPA’s Program for Utilization of Small, Minority, and Women’s Business Enterprises (40 CFR, Part 33) in procurement under the DWSRF program. The goals for the utilization of disadvantaged businesses are as follows:

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

All general contractors and subcontractors must accept the fair share objective/goals stated above and attest to the fact they are purchasing the same or similar construction, supplies, services, and equipment, in the same or similar relevant geographic buying market as the Washington Office of Minority Women Business goal.

IMPORTANT: Only MBEs and WBEs that are certified by EPA, SBA, DOT, or by state, local, tribal or private entities whose certification criteria match EPA’s can be counted towards the MBEs and WBEs utilization goal.

7.6. Six Good Faith Efforts

At a minimum, borrowers must follow the six good faith efforts listed below to ensure maximum participation among the DBEs.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practical through outreach and recruitment activities, including placing the DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty calendar days before the bid or proposal closing date. Post the advertisement on the State Office of Minority and Women's Business Enterprises (OMWBE) website at www.omwbe.wa.gov and a Plan Center (Urban League of Metropolitan Seattle, Contractor Development and Competitiveness Center 105 14th Ave, Seattle, WA 98122 or plans@cdccontractors.com).
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.
6. If the general contractor awards contracts to subcontractors, also require the general contractor to take the five good faith efforts listed above.

Borrowers must retain documentation showing they have followed the six good faith efforts above. There are three options for the documentation:

1. Provide an affidavit of publication of competitive bid that includes the following language at the least: "Small, minority-and-women-owned businesses are encouraged to submit bids".
2. Provide a copy of bid packet submittal to the Plan Center; (see above)
3. Post bid advertisement on the Washington State Office of Minority and Women Business Enterprise (OMWBE) website at www.omwbe.org

7.7. Preventing Unfair DBE Practices

There are a number of provisions set by EPA (40 CFR, 33.302) to prevent unfair practices that adversely affect DBEs:

General contractors are required to pay DBE subcontractors for satisfactory performance no more than 30 days from the time they receive reimbursement from borrowers.

- General contractors must notify borrowers prior to any DBE termination for convenience.

- If a DBE general contractor or subcontractor fails to complete work under the contract for any reason, the Six Good Faith Efforts must be employed in soliciting a replacement.
- Borrowers and general contractors are required to employ the Six Good Faith Efforts even if they achieved their fair share objectives.
- Borrowers must ensure that the following three forms are completed and submitted appropriately.

We strongly encourage the borrower to request and retain copies on file for all of the submitted forms. The forms need to be completed only if DBE subcontractors are employed. Copies of these forms are included in Attachment 7-H: Labor Standards Provision Municipal Borrowers. Alternatively, to download these forms in PDF format, please visit <http://www.epa.gov/osbp/grants.htm>.

7.8. EPA Form 6100-2 — DBE Program Subcontractor Participation Form

The form gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the general contractor, how much the DBE subcontractor was paid, and any concerns the DBE subcontractor might have.

EPA Requirement:	Borrowers are required to have their general contractor provide this form to the DBE subcontractors.
Form Provided By:	General contractor provides form to DBE subcontractors.
Form Completed By:	DBE subcontractors.
Form Submittal Process:	DBE subcontractors submit form directly to EPA: Attn. Greg Luchey, EPA Region 10, M/A OMP-145, Seattle, WA 98101; (206) 553-2967; Luchey.Greg@epamail.epa.gov . Subcontractors also send copy to general contractor.

7.9. EPA Form 6100-3 — DBE Program Subcontractor Performance Form

The form captures an intended DBE subcontractor's description of work to be performed for the general contractor and the price of the work the subcontractor submitted to the general contractor.

EPA Requirement:	Borrowers are required to have their general contractor provide this form to the DBE subcontractors.
Form Provided By:	General contractor provides form to DBE subcontractors.
Form Completed By:	DBE subcontractors.
Form Submittal Process:	DBE subcontractors submit form to general contractor. General contractor includes the forms in their bidding submittal package, which is submitted to borrower. General contractor submits form to EPA.

7.10. EPA Form 6100-4 — DBE Program Subcontractor Utilization Form

The form captures the general contractor's intended use of an identified DBE subcontractor and the estimated dollar amount of that subcontract.

EPA Requirement:	Borrowers are required to have their general contractor complete this form if they utilize DBE subcontractors.
Form Provided By:	Borrower provides form to general contractor.

Form Completed By:	General contractor.
Form Submittal Process:	General contractor submits form as part of their bidding submittal, which is submitted to borrower. General contractor also submits form to EPA.

7.11. Reporting the Use of MBE and WBE Contractors

Borrowers must include data about their use of local minority and women contractors as part of their quarterly Project Progress Report submission to CAU.

7.12. Develop the Advertisement / Invitation for Bid (IFB) with Scope of Work

Borrowers are required to use a **competitive bid process** when choosing a general contractor for DWSRF funded projects, following the guidelines listed below. Utilizing a Small Works Roster is **not an acceptable method** to use for competitive bidding of DWSRF funded projects.

7.13. Contents of the Invitation for Bid

Borrowers shall ensure that provisions for each of the following DWSRF requirements are included in their bid package. Additionally, these requirements must be included in the contract between the borrower and its selected general contractor, as well as in all subsequent contracts between the general contractor and all its subcontractors.

- The IFB must include the following information and materials (See Attachment 7-G: Bid Checklist)
 - ⇒ Access to Records/Records Retention Clause
 - ⇒ Land and Right-of-Way/Acquisition of Property Provisions
 - ⇒ Other Prohibited Interests/Conflict of Interest Provision
 - ⇒ Contract Security/Payment and Performance Bond Requirements
 - ⇒ Federal Labor Standards Requirements
 - ⇒ Title VI of the Civil Rights Act of 1964
 - ⇒ Age Discrimination Act of 1975, as Amended
 - ⇒ Section 504 of the Rehabilitation Act of 1973, as Amended
 - ⇒ Executive Order 11246, as Amended
 - ⇒ State Nondiscrimination Clause
 - ⇒ Americans with Disabilities Act of 1990
 - ⇒ Whistleblower
 - State Prevailing Wage Requirements (RCW 39.12)
 - Federal Prevailing Wage Rates
 - Statement of Intent to Pay Prevailing Wages (RCW 39.12.040)
 - Affidavit of Wages Paid (RCW 39.12.040)

All provisions required in the prime contract must also be passed by the prime to its subcontractors, including labor standards requirements.

Borrowers must send a checklist of all the documents that were included in the bid packet to CAU. See Attachment 7-D Bid Checklist.

7.14. Obtaining Prevailing Wage Rates

The federal Davis-Bacon Act requires that contractors pay workers no less than the prevailing wage rate for a given category of work. A similar state law, RCW 39.12, requires that workers be *paid state prevailing wage rates*. ***Thus, borrowers must obtain both the federal and state prevailing rates and place them in project bid specifications.*** EPA has issued guidelines for DWSRF compliance with Davis Bacon Provisions and Wage Rate Requirements. Please see <http://www.wdol.gov/> as well as Attachment 7-E.

Borrowers must further stipulate that contractors and subcontractors pay workers the higher of the rates for each job classification involved in the project. To obtain the federal prevailing wage rates, borrowers must prepare a written request that provides:

- A description of the project indicating the type of construction work to be performed.
- The location of the project (city, county and state).
- Proposed dates of advertising for bids and opening of bids.
- Email address if wage rates are to be emailed to borrower.

This request should be submitted to CAU at:

Washington State Department of Commerce
128 10th Avenue SW
PO Box 42525
Olympia, WA 98504-2525
Attn: (CAU Project Manager)

Or, send by email to the CAU Project Manager. Please see map, Attachment 1-B: Contracts Administration Unit Regional Map.

In those instances where the borrower or borrower's consultant has access to current federal wage decisions through the internet, a copy of the applicable federal wage decisions must be submitted to CAU prior to incorporating the federal wage decisions into the IFB.

The federal wage rates will be mailed or emailed to the borrower within two (2) working days from the receipt of the request. Both the current federal and state prevailing wage decisions must be included in the IFB.

The borrower may request the Washington State Prevailing Wage Rates from:

Department of Labor and Industries
Prevailing Wage Program
406 Legion SE
PO Box 44540

Olympia, WA 98504-4540 Phone (360) 902-5335

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>

7.15. Check Wage Rate Decisions (Ten Day Bid Check)

Once applicable wage decisions are included in the IFB, ten (10) days prior to the scheduled bid opening, borrowers are required to check with CAU to make sure that no modifications have been made to those federal wage decisions. If the federal wage decisions are still current, the bid opening may proceed on schedule. If modifications have been issued, the new wage decisions must be provided to bid package holders in the form of an addendum to the bid document. Even if the borrower has current wage decisions from a different source, CAU must be contacted for the Ten Day Bid Check.

Wage decision modifications issued less than ten days prior to bid opening do not have to be included in the IFB, if the jurisdiction feels there is insufficient time to issue an IFB amendment prior to the scheduled bid opening.

7.16. License, Bonding and Insurance for Contractors

The contractor must be licensed, bonded and insured in the State of Washington. Contractors are not required to have payment/performance bonds, which are above and beyond normal bonding requirement. However, this type of bonding ensures liability is covered and can reduce the Borrower's exposure to risk. Payment/ performance bonds are strongly encouraged for loan agreements over \$100,000. A performance bond guarantees that the Borrower will complete the contract according to its terms, including price and time. In case of default, the owner will be paid the amount of the bond, which is usually the amount of the construction contract. A payment bond guarantees that subcontractors and suppliers will be paid the money they are due from the principal contractor, which reduces the possibility of liens against the project. The Borrower should ensure the bonding company and the insurance company recognizes the borrower as an interested party and notifies the borrower if the bond or insurance is terminated. The DWSRF program should also be listed among the interested parties to be notified if a bond or insurance is terminated.

It is important that borrowers specify within the contract that they will be notified if the bond is terminated. Borrowers will need to notify the CAU if payment and/or performance bonds are terminated for any reason.

7.17. Develop the Contract Document

All the clauses and provisions that were in the construction IFB packet must be incorporated into the construction contract. All provisions required in the prime contract must also be passed on by the prime contractor to all subcontractors, including the Labor Standards Provision.

7.18. Bidders List

Borrowers must document and maintain a list of general contractors to whom bid advertisements were sent (the list must include both DBE and non-DBE bidders). The bidders list must be kept until the loan's project period has expired and the recipient is no longer receiving EPA funding under the loan. For entities receiving identified loans, the bidders list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:

- Entity's name with point of contact;
- Entity's mailing address, telephone number, and e-mail address;

- The procurement on which the entity bid or quoted, and when; and
- Entity's status as an MBE/WBE or non-MBE/WBE.

Under the DWSRF program, borrowers receiving a total of \$250,000 or less in EPA funds in a given fiscal year are exempted from the Bidders List requirement.

7.19. Receive Sealed Bids

All bids received should be logged with the time and date of receipt and kept in a secure place. If a borrower is located in a rural area of the state and has difficulty in soliciting bids for construction projects, along with advertising for competitive bid in the local newspaper, they may also directly solicit bids from general contractors as part of the bidding process.

7.20. Conduct Bid Opening

Bids must be opened in public at the time and place stated in the advertisement. The bid opening can be delayed, but all the bidders must be notified in advance. If a bid opening is delayed, all bidders should have the opportunity to withdraw their bids, or, if they wish, resubmit the bid (e.g., cost of equipment, materials, etc. could increase) just before the new bid opening date and time. The public bid opening should be conducted in a business-like manner. Each bid must be read aloud during the meeting and the apparent low bidder determined. A description of the bid review/tabulation process must also be maintained in the borrower's project files.

If no bids are received, or the received bids are too costly, re-advertise the bid ad in a wider geographic area. Borrowers are encouraged to maintain a list of reputable general contractors that have done good work for them in the past or have bid previous projects in order to alert them of the bid request.

7.21. Select the Lowest Responsible Bidder

The bids received should show in detail the estimated total cost of the work, a unit price for each component of the project and its overall individual cost, and the estimated completion schedule for each phase. The lowest responsible bidder must:

- Be licensed to work in the State of Washington;
- Have the ability, capacity, and skill to perform the work described in the contract scope of work, and comply with requirements within the indicated timeframes;
- Have good character, integrity, reputation, judgment, experience, and efficiency;
- Be able to perform within the time specified; and
- Demonstrate successful performance of previous construction contracts or services, and demonstrate compliance with laws relating to the loan contract or services.

7.22. Check Contractor Eligibility

Before awarding the contract, jurisdictions must verify that the complete name of both the low bidding firm and its owner or president are not in the Federal Excluded Parties List System (EPLS) for Ineligible Professionals and Debarred Contractors. Further, the jurisdiction must provide CAU with a computer printout documenting the firm and owner/president do not appear on the EPLS list. Borrowers are also responsible for ensuring that any subcontractors associated with the

DWSRF project are not on the EPLS list. Contractor/subcontractor eligibility may be verified using the following website: www.epls.gov.

7.23. Check Contractor Registration

Contractor's Registration Section
Consultation and Compliance Division
Department of Labor and Industries
520 South Water Street
PO Box 44460
Olympia, WA 98504-4460
(360) 902-5335 or (800) 647-0982
<http://www.lni.wa.gov>

7.24. Award the Contract

The borrower must award the contract within 30 days or reject all bids. The contract must be awarded to the lowest responsible bidder whose bid conforms with all material terms and conditions of the invitation for bids.

7.25. Negotiating the Bid Price

Negotiation of bid price, based upon agreed changes to the plans and specifications in the bid documents, is allowed with a low responsible bidder under the following conditions:

- All bids exceed the available funds, as certified by the appropriate fiscal officer;
- The apparent low responsible bid does not exceed the available funds by 5% on projects valued under one million dollars, or the greater of fifty thousand dollars or 2.5% for projects valued between one million and five million dollars; and
- The negotiated adjustment will bring the bid price within the amount of available funds.

7.26. Execute the Contract

Following award of the contract, contract documents and applicable bonding and insurance must be completed and executed. Contract documents must include all items contained in the bid package, as well as the executed contract, bid proposal, contractor certifications, and bond and insurance forms.

7.27. Conduct Pre-Construction Conference

Prior to starting construction, all parties should attend a pre-construction conference to go over the project details and federal requirements. See Section 8 for details.

7.28. Send Notice of Contract Award to CAU

Within ten (10) days after contract award and signing, the borrower must submit a DWSRF Notice of Contract Award and Notice to Proceed form (Attachment 7-B: Notice of Contract Award and Notice to Proceed) to CAU. The form identifies the borrower, project name and location, contract number, contractor, award date, contract amount, bid solicitation date, number of bids received, name and addresses of MBE and WBE businesses solicited, date Notice to Proceed was issued, start of construction date and must be signed by the borrower.

7.29. Maintain Procurement Records

Maintain documentation of the procurement process in project files for the life of the loan plus six years.

7.30. List of Reference Materials

- Attachment 7-A: Example of Advertisement for Construction Contract Bids.....56
- Attachment 7-B: Notice of Contract Award and Notice to Proceed57
- Attachment 7-C: Certification Regarding Debarment, Suspension, and Other
Responsibility Matters.....58
- Attachment 7-D: EPA Form 6100-2-DBE Program Subcontractor Participation Form 60
- Attachment 7-E: EPA Form 6100-3-DBE Program Subcontractor Performance Form62
- Attachment 7-F: EPA Form 6100-4-DBE Program Subcontractor Utilization Form64
- Attachment 7-G: Bid Checklist66
- Attachment 7-H: Labor Standards Provision Municipal Borrowers67
- Attachment 7-I: Labor Standards Provisions for Non-Municipal Borrowers76
- Attachment 7-J: Davis-Bacon Flow Chart83

Attachment 7-A: Example of Advertisement for Construction Contract Bids

City of Devin
Business Development Building
Bid Date, September 1, 2002
Estimated Cost of Project: \$1,200,000.00
INTIVATION FOR BIDS

Sealed bids will be received by the City of Devin Public Works Office, located at 130 SE Cascade Avenue, PO Box 413, Devin, WA 98684, until 2 P.M., September 21, 2002, for the general contract for construction of a water reservoir. The project consists of constructing a 180 foot tall water reservoir and removal of a 100 foot tall elevated tank.

Bidding documents for the project are prepared by Delco Engineering, Inc., P.S.

Availability of Bidding Documents: Bona fide general contractors may obtain the contract documents at the office of Delco Engineering, Inc., P.S., located at 1313 West Clark, Nimbi, WA 99301, (509) 454-4402 upon payment of \$75.00 per set. Copies of the contract documents may be examined at the following locations: Portland Plan Center, 1125 SE Madison, Portland OR; Associated General Contractors, 1200 Westlake North, Seattle, WA; 528 N. 20th, Yakima, WA; Spokane Construction Council, E. 102 Boone Street, Spokane, WA; Tri-City Construction Council, 34 Vista Way, Kennewick, WA; Associated Women Contractors, 921 South Elm, Seattle WA.

Bid Security: A certified or bank cashier's check in the amount of five percent (5%) of the bid amount, payable to the City of Devin, or bid bond executed by a licensed bonding company is required with each bid.

Rejection of Bids: The city shall have the right to reject any or all bids not accompanied by bid security or data required by the bidding document or a bid in any way incomplete or irregular.

The City of Devin is an equal opportunity and affirmative action employer. Small, minority- and women-owned businesses are encouraged to submit bids. All work performed on the project will be subject to Davis-Bacon/Prevailing Wage requirements.

The bids will be open at 2 P.M., September 21, 2002, at the offices of Devin Public Works Department, located at 130 SE Cascade Avenue, Devin WA. For more information call Shawn Gometz at (509) 427-5484.

This project is funded by a federal loan from the Department of Health, Public Works Board and Department of Commerce Drinking Water State Revolving Loan fund program.

Attachment 7-B: Notice of Contract Award and Notice to Proceed

(Also available at: <http://www.pwb.wa.gov/Forms.htm>)

Borrower_____

Date Bid Solicitation Published_____**

Bid Opening Date/Number of Bids

Received_____

Names/Addresses of Disadvantaged Business Enterprise

Solicited_____

Date Contract Awarded_____ Contract Amount \$_____

Federal Department of Labor Prevailing Wage Rates:

Wage Decision Number: _____ Modification Number: _____

**A "NOTICE OF SUSPENSION, DEBARMENT AND OTHER RESPONSIBILITY MATTERS"
MUST BE SIGNED BY THE CONTRACTOR AND ATTACHED TO THE CONTRACT.**

To obtain this form, download it at www.pwb.wa.gov; go to Forms/DWSRF.

Name of Contractor_____

Date Notice to Proceed Issued_____

Date of Construction Start _____

PLEASE NOTE: The project funded by this Contract is subject to paying the higher of federal Davis Bacon prevailing wages or state prevailing wage law Chapter 39.12 RCW. The borrower should consult with their CAU project manager to determine the correct prevailing wage rate required for each worker classification that will be working on the project.

Submitted By:

Signature

Name

Street Address

Title
Phone_____

City State Zip

**** Please attach copy of published bid solicitation advertisement.****

Attachment 7-C: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

(Also available at: <http://www.pwb.wa.gov/Forms.htm>)



United States Environmental Protection Agency
Washington, DC 20460

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction: violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

☐

I am unable to certify to the above statements. My explanation is attached.

Instructions

Under Executive Order 12549, an individual or organization debarred or excluded from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a subagreement thereunder for \$25,000 or more.

Accordingly, each prospective recipient of an EPA grant, loan, or cooperative agreement and any contract or subagreement participant thereunder must complete the attached certification or provide an explanation why they cannot. For further details, see 40 CFR 32.510, Participants' responsibilities, in the attached regulation.

Where To Submit

The prospective EPA grant, loan, or cooperative agreement recipient must return the signed certification or explanation with its application to the appropriate EPA Headquarters or Regional office, as required in the application instructions.

A prospective prime contractor must submit a completed certification or explanation to the individual or organization awarding the contract.

Each prospective subcontractor must submit a completed certification or explanation to the prime contractor for the project.

How To Obtain Forms

EPA includes the certification form, instructions, and a copy of its implementing regulation (40 CFR Part 32) in each application kit. Applicants may reproduce these materials as needed and provide them to their prospective prime contractor, who, in turn, may reproduce and provide them to prospective subcontractors.

Additional copies/assistance may be requested from:

Compliance Branch
Grants Administration Division (PM-216F)
U.S. Environmental Protection Agency 401 M Street SW
Washington, DC 20460
(Telephone: 202/475-8025)

EPA Form 5700-49 (11-88)

Attachment 7-D: EPA Form 6100-2-DBE Program Subcontractor Participation Form

(Also available at: <http://www.pwb.wa.gov/Forms.htm>)



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Disadvantaged Business Enterprise Program DBE Subcontractor Participation Form

NAME OF SUBCONTRACTOR ¹	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	EMAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR
<div>Subcontractor Signature _____ Title/Date _____</div>		

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-2 (DBE Subcontractor Participation Form)



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Disadvantaged Business Enterprise Program DBE Subcontractor Participation Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Participation Form to this address.

Attachment 7-E: EPA Form 6100-3-DBE Program Subcontractor Performance Form

(Also available at: (Also available at: <http://www.pwb.wa.gov/Forms.htm>)



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR ¹		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
Currently certified as an MBE or WBE under EPA's DBE Program? ____ Yes ____ No		
Signature of Prime Contractor _____		Date _____
Print Name _____		Title _____
Signature of Subcontractor _____		Date _____
Print Name _____		Title _____

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program DBE Subcontractor Performance Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.

Attachment 7-F: EPA Form 6100-4-DBE Program Subcontractor Utilization Form

(Also available at: (Also available at: <http://www.pwb.wa.gov/Forms.htm>)



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program DBE Subcontractor Utilization Form

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors ¹ will be used on this project:			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?
<p>I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).</p> <p>_____ Signature Of Prime Contractor</p> <p>_____ Date</p> <p>_____ Print Name</p> <p>_____ Title</p>			

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program DBE Subcontractor Utilization Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Utilization Form to this address.

Attachment 7-G: Bid Checklist

The bid solicitation must include the following information and materials:

- ☐ Source of federal assistance identified
- ☐ Jurisdiction identified
- ☐ Contact person and phone number
- ☐ Date, time and place of public bid opening
- ☐ Basis for rejecting bids
- ☐ Any factors, in addition to lowest price, which will determine the lowest, responsible bidder, or responsive bid.
- ☐ State license requirement
- ☐ Clear, accurate description of the technical requirements for materials, products, or services (specifications)
- ☐ Plans and other pertinent attachments

Federal Requirements:

- ☐ Disadvantaged Business Enterprise
- ☐ State and Federal Prevailing Wage Rates
- ☐ Suspension and Debarment Certification
- ☐ Prohibition Statement
- ☐ Nondiscrimination Provision
- ☐ Protection of Whistleblower

- ☐ Specify that a five percent (5%) bid guarantee is required.
- ☐ Bond requirements (for municipal borrowers only)

- ☐ Specify if a 100% Performance Bond is required on contracts of \$100,000 +
- ☐ Specify if a 100% Payment Bond is required on contract of \$100,000 +

- ☐ Labor Standards Requirements
- ☐ Applicable Federal Wage Decision
- ☐ Applicable State Wage Decision
- ☐ Equal Opportunity and Affirmative Action Provisions (refer to the loan contract General Terms and Conditions).

Attachment 7-H: Labor Standards Provision Municipal Borrowers

Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2010 appropriation , the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the

project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of

the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The

ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may

be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the subrecipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract . Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.

Attachment 7-I: Labor Standards Provisions for Non-Municipal Borrowers

Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2010 appropriation , the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the

wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any

laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5

(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress,

expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference

in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by

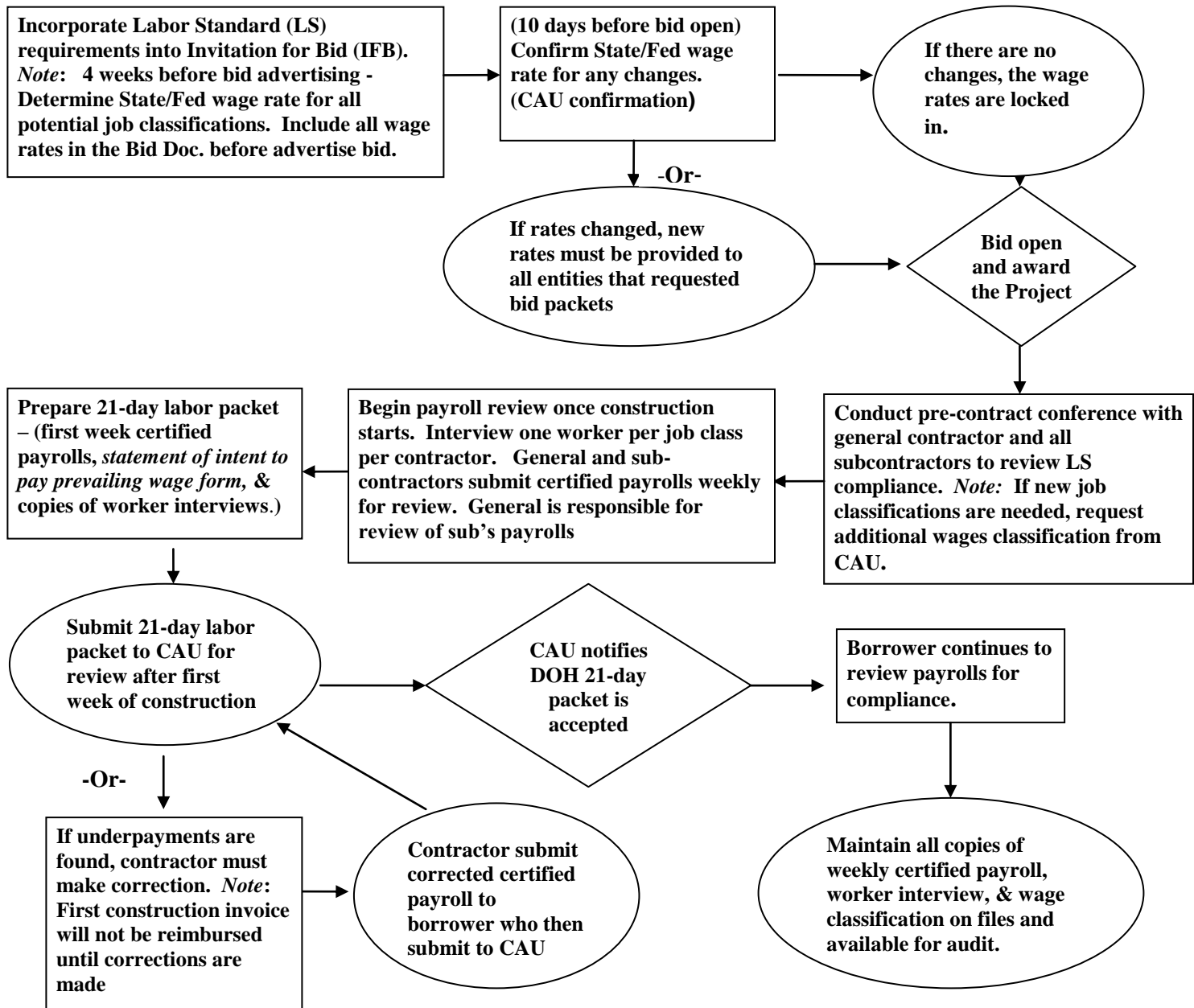
the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guard and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Attachment 7-J: Davis-Bacon Flow Chart

Disclaimer: This Flow chart was developed by the PWB staff and used by technical and contracting staff to conduct DWSRF program overview with borrowers to familiarize them with the Davis Bacon requirements. This is a summarized reviewing tool only and does not guarantee compliance with all Davis Bacon requirements. Borrowers, prime contractors, and sub-contractors are responsible for compliance with all the rules and guidelines as required by the Davis Bacon Act as enacted in the laws. The PWB expressly disclaims any warranty related to the compliance with the Davis Bacon requirements and will accept no responsibility for any consequence arising from the use or reliance on this Flow Chart.



Section 8. MANAGING CONSTRUCTION PROJECTS

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Section 8. Managing Construction Projects

8.1. Overview

Borrowers undertaking a DWSRF funded construction project must have a contract management system in place to ensure contractors perform in accordance with contract terms, conditions, specifications and applicable state and federal requirements. This system includes conducting the preconstruction conference, review of contractor and subcontractor compliance with Labor Standards, on-site inspections, review of change order requests, project closeout, release of retainage and record keeping.

8.2. Conduct the Preconstruction Conference

After awarding and signing the construction contract and before the contractor is issued a Notice to Proceed, the borrower, or its representative, is responsible for holding a preconstruction conference for the general contractor and subcontractors, engineers and other professional service providers and other interested parties. The preconstruction conference should cover the following:

- Responsibilities of the engineer, borrower, contractor and any other agencies or parties contributing to or involved in the project;
- Discuss general contract provisions, including specifications, notice to proceed, completion schedule, guarantees and warranties for materials, workmanship, change orders, etc.
- Review project inspection and reporting responsibilities of the engineer and borrower
- Describe Labor Standards requirements, prevailing wage rates, apprentices and trainees, fringe benefits, weekly payroll and on-site employee interviews;
- Requirements for final acceptance of work, special testing and/or site cleanup;
- Distribute necessary forms such as certified payroll, posters, prevailing wage rates to the contractor and subcontractors;

Maintain a record of the preconstruction conference in the project file.

8.3. Request Additional “Trade” Classifications and Wage Rates

If the work classification(s) needed does not appear on a federal wage decision, borrowers will need to request an additional classification and wage rate (even if it appears on the state wage decision). It is recommended the process be started early during the preconstruction conference. The borrower and prime contractor for the project should identify the classification needed and recommend a wage rate through CAU.

Requests can be approved if:

- The requested classification is used by construction contractors in the area of the project (usually defined as the county where the project is located).
- The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other

words, if there already is an Electrician classification and wage rate on the wage decision, another Electrician classification and rate cannot be requested.)

- The proposed wage rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- If the prime contractor and laborers and mechanics to be employed in the classification (if known), and the borrower agree on the classification and wage rate (including fringe where appropriate).

Requests must be made in writing through the borrower, including a completed Conformance Request SF 1444 Form (Attachment 8-A). The request should identify the work classification that is missing and recommend a wage rate for the classification. Also include any pertinent documents that may be helpful (if requesting paying the state prevailing wage rate, include the state wage decision). Send the packet to CAU for review and submission to the U.S. Department of Labor (DOL) for approval. DOL's response will be forwarded to the borrower.

Contact CAU before submitting a request. They can offer suggestions and advice that may save time and increase the likelihood that DOL will approve the request. If the request is denied, the borrower will be notified what classification and rate should be used. Requesting additional classification does not hold up the payroll process. It may however result in correcting underpayments if DOL is not in agreement with the request.

8.4. Issue Notice of Contract Award & Notice to Proceed

Once the preconstruction conference is conducted, the borrower can issue the Notice to Proceed to the contractor. The notice conveys the authorization to the contractor to begin work on the project.

Note: Construction cannot begin until the borrower has received approval from DOH to start construction.

8.5. Conduct Payroll Reviews

The Federal Copeland Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions such as payroll taxes, deductions the worker authorizes in writing, or those provided by court order. The ACT also requires contractors to maintain payroll records and submit weekly certified payroll and statement of compliance to the borrower certifying wages paid and deductions made. The appropriate wage rates are those determined pursuant to the federal Davis-Bacon related acts and the State Prevailing Wage Act (RCW 39.12) by the Federal Department of Labor and the State Department of Labor and Industries, respectively. Borrowers must stipulate in the advertisement for bid and contract that contractors and subcontractors pay workers the higher of the prevailing state or federal rates for each job classification involved in the project. Further, if the rate is not shown in the Davis-Bacon related acts, an additional classification must be obtained from the U.S. Department of Labor through CAU.

Borrowers must also review payrolls to determine if workers on the construction project have received appropriate rates of overtime compensation. The Contract Work Hours and Safety Act requires that laborers and mechanics receive overtime compensation at a rate of not less

than one and one-half times their regular hourly wage after they have worked 40 hours in one week on DWSRF funded projects.

Weekly payroll records must be reviewed by the borrower for the following:

- Payrolls were submitted on time
- Forms were filled out completely including on the initial payroll, the name, identifying number, address, and job classification for each employee.
- All self-employed owners, who have no employees, are designated as an employee and are reported on the certified payroll of the General contractor (or subcontractor if hired by them.) Fill out the form the same as for employees and enter “self-employed” and contracting license number where the payroll asks for deductions.
- If the owner of the company has employees and performs work on the project covered by Davis-Bacon wage decisions, the owner is listed as an employee on the certified payroll he submits for his employees. Fill out the form the same as for employees and enter “self-employed, owner or owner/operator”.
- The wages and fringes listed on the certified payroll for each job classification agree with those identified on the statement of intent to pay prevailing wages at the higher of state or federal rates.
- The payrolls include all the classifications being utilized even if not listed on the statement of intent to pay prevailing wages.
- Payrolls only include permissible deductions.
- When fringe benefits are being paid into a benefit plan, block 4(a) on the back of the certified payroll form must be checked.
- Apprentices or trainees listed on the certified payroll are working under state of federal Bureau of Apprenticeship and Training agreements. Copies of those certifications should be included with payrolls.
- The payroll form is signed.

8.6. Conduct On-Site Reviews

The borrower, or its representative, must provide for visits to the construction site to determine that:

- Wage determinations are posted at the job site.
- Employees are working within the proper job classification.

8.7. Conduct Employee Interviews

The borrower or its representative (not the prime contractor, or subcontractors) must conduct employee interviews (see ATTACHMENT 8-B: Employee Interview Form) with at least one employee in each trade to determine the following:

- Employees are being paid the amounts/rates stated on the payrolls
- Employees are being properly compensated for overtime hours
- Employees are receiving their full wages and fringe benefits and are not being subjected to coercion or kickback tactics by the contractor or subcontractors.

- Contractors and subcontractors are using and paying apprentices and trainees appropriately.

8.8. Submit First Week Labor Standards (21 Day Labor Packet)

For each prime and subcontractor performing work on-site during the first week of construction, the borrower must provide a copy of the following documents to CAU within 21 days after the contractors start construction on the project.

- Statement of Intent to Pay Prevailing Wages
- Certified Payroll for the first week pay period
- Employee interview forms for the first week

The purpose for submitting the above information to CAU is to assure that any underpayments are detected early and appropriate corrections made early while easy to implement. **The first week labor standards (21 day) packet must be provided to CAU and any underpayments resolved before CAU will pay the construction reimbursement request.**

If underpayments are discovered, CAU will notify the borrower to work with the prime contractor to have restitution made and a corrected certified payroll submitted to CAU for approval.

8.9. Resolve Overtime Violations

If the prime contractor or subcontractors do not compensate a worker appropriately for overtime, the borrower needs to notify CAU and work with the prime contractor to resolve the overtime violations.

- If the violation is less than \$10 per worker, the violation does not have to be reported.
- If the violation is \$10 or more per worker, the prime contractor must make payment or assure payments are made by subcontractors and submit a corrected certified payroll to the borrower. Anytime violation is \$10 to \$999, the borrower must notify CAU in writing. If violation is \$1,000 or more, the borrower must submit a Labor Standards Enforcement Report to the Department of Labor (contact CAU for assistance in filing this report.)

8.10. Resolve Other Underpayments

If a mathematical error, misclassifications, or other error that results in the underpayment of wage or fringe benefits occurs, the prime contractor or subcontractor must make restitution and submit a corrected certified payroll to the borrower. A signed Statement of Compliance must be attached to the corrected certified payroll.

8.11. Conduct Technical Inspections

During construction, the borrower is responsible for monitoring contractor/subcontractor progress and compliance with technical requirements of the project. Typically, this monitoring process is the responsibility of the project engineer, consulting engineer or

architect; however, the borrower should designate someone locally with oversight responsibility. The purpose of the technical monitoring process is to ensure that the project is constructed as planned, within budget and estimated timeframes, and within specified quality and quantity standards.

8.12. Maintain Project Records

The borrower is required to maintain project records that document all financial, monitoring and inspection transactions, and progress reviews that occur during the life of the project. Borrowers must maintain copies of weekly certified payrolls and any corrected certified payrolls, copies of correspondence and resolution of overtime violations, and copies of employee interviews in the project files for the life of the loan as defined by the contract plus six years.

8.13. Project Completion Requirements and Certified Report

When the project is complete, the borrower is required to submit the DOH Construction Completion Report to the DOH Regional Engineer. A copy of the approved report or the approval letter from the DOH Regional Engineer must be submitted to CAU, prior to closing out the project.

To complete the closeout process, the borrower must also submit a Project Completion Report in PWeB. The report must be signed by the borrower (for **non-municipals the report must be certified by a certified public accountant**) and submitted to CAU.

ATTACHMENT 8-A: Request for Authorizing Additional Classification & Rate

(Also available at: <http://www.wdol.gov/docs/Sf1444.pdf> or (Also available at: <http://www.pwb.wa.gov/Forms.htm>)

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE			CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT		OMB No.: 9000-0089 Expires: 02/28/96
Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.					
NOTE: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16 AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER					
1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210			2. FROM: (REPORTING OFFICE)		
3. CONTRACTOR				4. DATE OF REQUEST	
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)	
10. SUBCONTRACTOR (IF ANY)					
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)					
12. LOCATION (CITY, COUNTY AND STATE)					
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION					
NUMBER:		DATED:			
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLES(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)			b. WAGE RATE(S)		c. FRINGE BENEFITS PAYMENTS
(Use reverse or attach additional sheets, if necessary)					
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)			15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE		
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE			TITLE		CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))					
<input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.					
<input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.					
(Send copies 1, 2, and 3 to Department of Labor)					
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE			TITLE AND COMMERCIAL TELEPHONE NO.		DATE SUBMITTED
NSN 7540-01-268-0631 Previous edition is usable			DEPARTMENT OF LABOR		STANDARD FORM 1444 (REV. 12-90) Prescribed by GSA-FAR (48 CFR) 53.222(f)

ATTACHMENT 8-B: Employee Interview Form

(Also available at: <http://www.pwb.wa.gov/Forms.htm>)

LABOR STANDARDS INTERVIEW							
CONTRACT NUMBER				EMPLOYEE INFORMATION			
NAME OF PRIME CONTRACTOR				LAST NAME		FIRST NAME	
NAME OF EMPLOYER				STREET ADDRESS			
SUPERVISOR'S NAME				CITY		STATE	
LAST NAME				FIRST NAME		MI	
				WORK CLASSIFICATION		WAGE RATE	
ACTION						CHECK BELOW	
						YES NO	
Do you work over 8 hours per day?							
Do you work over 40 hours per week?							
Are you paid at least time and a half for overtime hours?							
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?							
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?							
HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?				TOOLS YOU USE			
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)							
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)							
THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE							
EMPLOYEE'S SIGNATURE						DATE (YYMMDD)	
INTERVIEWER		SIGNATURE		TYPED OR PRINTED NAME		DATE (YYMMDD)	
INTERVIEWER'S COMMENTS							
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED				ACTION (If explanation is needed, use comments section)		YES NO	
				IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?			
				ARE WAGE RATES AND POSTERS DISPLAYED?			
FOR USE BY PAYROLL CHECKER							
IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?							
<input type="checkbox"/> YES <input type="checkbox"/> NO							
COMMENTS							
CHECKER							
LAST NAME		FIRST NAME		MI		JOB TITLE	
SIGNATURE						DATE (YYMMDD)	

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Previous edition not usable

STANDARD FORM 1445 (REV. 12-96)
Prescribed by GSA - FAR (48 CFR) 53.222(g)

Glossary

A-19 Reimbursement Voucher	The form used to request payment for DWSRF expenses incurred.
Circular A-133	A federal audit required of all borrowers who draw over \$500,000 in a calendar year.
COMMERCE	Washington State Department of Commerce
Competitive Bid Process	All construction activities must be contracted out to the lowest responsible bidder through a competitive bidding process.
Construction Completion Report	A form submitted to the Washington State Department of Health by the project engineer certifying that the project is complete.
Contracts Administration Unit (CAU)	A work group within the Washington State Department of Commerce responsible for managing DWSRF contracts from the point of execution through project completion and loan repayment.
Department of Archaeology and Historic Preservation (DAHP)	Washington State Department of Archaeology and Historic Preservation, which reviews cultural resource activities for federal and state funded projects.
Electronic Funds Transfer (EFT)	DWSRF borrowers are encouraged to sign up for EFT to have funds transferred to their accounts electronically rather than through the mail by State Warrant.
Environmental Review	State Environmental Review Process (SERP) or the National Environmental Policy Act (NEPA). The Washington State Department of Health determines which process will be used and approves the completion of the process. Process must be complete prior to starting construction.
Environmental Protection Agency (EPA)	U.S. Environmental Protection Agency.
Excluded Parties List (EPLS)	Federal suspension and debarment actions prevent companies and individuals from participating in government contracts, subcontracts, loans, grants and other assistance programs. The Excluded Parties List is available at www.epls.gov .

Executed Contract	A contract is considered “executed” once the document is signed by the borrower and the BOARD.
Department of Labor and Industries (L&I)	Washington State Department of Labor and Industries.
Invitation for Bid	Bid packet containing all the pertinent information the contractor will need to bid on a project
Lowest Responsible Bidder	A term used to determine the successful contractor for a construction project that has been competitively bid.
Office of Drinking Water (ODW)	Washington State Department of Health’s (DOH) Office of Drinking Water.
Prevailing Wages	Hourly wage and usual benefits paid in the largest city, in each county, to the majority of workers, laborers, and mechanics s determined by the federal Department of Labor and by the Washington State Department of Labor and Industries for each trade and occupation employed in the performance of public work.
Project Report and Related Construction Documents	Prior to starting construction, DOH requires DWSRF borrowers to submit a Project Report and Construction Documents for approval to the DOH Regional Engineer.
BOARD	Washington State Public Works Board.
PWeB	The BOARD’s online contract management system that borrowers use to access loan information, submit quarterly reports and request amendments to their contract. .
Quarterly Reports	Quarterly progress reports required for all DWSRF contracts. Reports are submitted through PWeB.
Section 106 Cultural/Historical Review	The federal requirement that, prior to construction, any impacts to cultural resources be minimized or mitigated. DOH approves the completion of the process. No construction draw reimbursements can be made until this process is completed.
Suspension and Debarment	Federal suspension and debarment actions prevent companies and individuals from participating in government contracts, subcontracts, loans, grants and other assistance programs. Searches on contractors who have been suspended or debarred from federal contracts can be conducted at www.epls.gov .